
Bulletin No. 41

March, 1969

PROPERTY OF U. S. ARMY
THE JUDGE ADVOCATE GENERAL'S SCHOOL
LIBRARY

The Judge Advocate JOURNAL



Published By

JUDGE ADVOCATES ASSOCIATION

An affiliated organization of the American Bar Association, composed of lawyers of all components of the Army, Navy, and Air Force

Denrike Building

Washington, D. C. 20005

JUDGE ADVOCATE JOURNAL

Bulletin No. 41

March, 1969

Publication Notice

The views expressed in articles printed herein are not to be regarded as those of the Judge Advocates Association or its officers and directors or of the editor unless expressly so stated.

TABLE OF CONTENTS

	PAGE
Pirnie Introduces Bill in Aid of Military Legal Services	1
The 1968 Annual Meeting	4
Report of TJAG — Army	7
Report of TJAG — Air Force	11
Report of TJAG — Navy	19
Our Captured Military Men	23
Darden Named CMA Judge	33
The Judge Advocate General of the Navy	35
The Deputy Judge Advocate General of the Navy	37
Assistant Judge Advocate General of the Army	39
1968 Law Day USA—At The Pentagon	40
In Memoriam	43
Judge Kilday Dies	44
1969 Annual Meeting in Dallas	44
Life Members	45
What the Members are Doing	47

Officers and Directors 1968-69—see inside back cover.

Published by the Judge Advocates Association, an affiliated organization of the American Bar Association, composed of lawyers of all components of the Army, Navy, and Air Force.

Denrike Building, Washington, D. C. 20005 - Sterling 3-5858

PIRNIE INTRODUCES BILL IN AID OF MILITARY LEGAL SERVICES

Congressman Alexander Pirnie introduced H.R. 4296, a bill to provide for the procurement and retention of judge advocates for the armed forces on 23 January 1969. Mr. Pirnie's explanation of his bill and the need for such legislation was set forth in his extended remarks in the Congressional Record:

I have introduced legislation authorizing professional pay and a continuation bonus for judge advocates in the uniformed services. The intent of the bill is to provide retention incentives for service legal officers similar to those presently received by doctors, dentists, and veterinarians in the Armed Forces.

The retention rate of legal officers by our services is now dangerously low and the situation will continue to deteriorate unless prompt action is taken to make legal careers in the military more financially acceptable. My bill is designed to do just that by providing a monthly professional pay allowance based on rank and a variable continuation bonus which the officer could earn by continuation in the service past his initial obligation and after he becomes eligible for voluntary retirement with pay.

Specifically, the legislation provides:

First. Retention incentives as follows: \$50 per month through

grade O-3—captain; \$150 per month for grades O-4 and O-5—major and lieutenant colonel; \$200 per month for grades O-6 and above—full colonel and above.

Second, a continuation bonus payable at the rate of 2 months' basic pay for each year for which the judge advocate agrees to remain in active service beyond any then outstanding active duty service obligation or service commitment. The contract would be for a minimum of 3 additional years and a maximum of 6 years. Judge advocates would be eligible for this bonus on two occasions; First, upon the completion of 4 years' active service; and second, at the time when they become eligible for voluntary retirement with pay. A provision is included which would allow the judge advocate to receive the bonus either at the beginning of the period or to have it prorated.

It should be noted that the problem plagues all the uniformed services and shows no sign of diminishing in the absence of affirmative proposals.

The seriousness of the retention problem was highlighted in a feature article contained in the April 8, 1967, edition of the Journal of the Armed Forces entitled "Career Legal Billets Go Begging."

At the outset, Journal Editor Lou Stockstill placed the problem in proper perspective:

The armed forces are having a tough time filling "lawyer" billets in their career ranks.

As a result, much of the legal workload of the Services is being handled by young and relatively un-tried officers whose diplomas still smell of wet ink.

In response to a Journal survey, all four Services say the problem is not one of obtaining sufficient numbers of law specialists and judge advocates—but of keeping them. The turnover rate is extremely high and the retention rate is very low.

In the intervening year and a half since the Journal article, the retention problem has worsened.

For example, within the Army during the 14-year period from 1951 through 1964, of the 3,020 military lawyers who entered active duty, only 380 remained as of 1968. This represents an overall retention rate of 12½ percent. Since 1960, in the Navy, the number of career lawyers has steadily declined to the point where the situation is now critical. As recently as last October, the Navy had only 38 regular lieutenants out of some 630 lawyers on active duty. This amounts to an average yearly retention of 12 lawyers per year. To assure experienced lawyers in the overall career structure, the Navy must retain 30 lawyers in each year group. Without remedial action, it is anticipated that by July 1972, 75 percent of all uniformed Navy lawyers will have had less than 5 years' legal military experience.

The situation in the Air Force is likewise distressing. Since 1956 that service has been able to retain only 19 percent of its judge advocates, including recallables. If the recallables are excluded, the percentage drops to 14 percent. The Air Force estimates that between 40 and 45 percent retention is necessary to maintain the JAG Department at the desired level.

The situation I have just outlined demands and deserves our immediate attention, but it is important to realize that one further relevant factor must also be considered. During the past session, we passed and the President signed into law the Military Justice Act of 1968—a landmark proposal which extends to service personnel the right-to-counsel safeguards which the Supreme Court in recent years has granted to criminal defendants in civilian courts. In addition, this new law requires the services to provide qualified and experienced lawyers as military judges in trials by special and general courts-martial. The four services estimate they will need approximately 700 additional military lawyers in order to meet this requirement.

It is, therefore, imperative that Congress take steps to insure a higher lawyer retention rate in the Armed Forces. To do otherwise is to forego the high standard of military justice we have long set. Last session, we affirmed our commitment to our men in uniform that they be afforded the same legal protection that our courts extend to civilians. We cannot now deny them

the means of obtaining those safeguards through our failure to provide experienced and qualified military lawyers.

My bill should enable the armed services to substantially increase their lawyer retention rate thereby improving significantly the quality of legal advice and military justice in the services. The Judge Advocates Association and the American Bar Association have approved

this type of legislation in the past. I am confident that it will have the support of this body.

The Judge Advocates Association actively supports this legislation. Cdr. Penrose L. Albright, Chairman of the Association's Legislative Committee has solicited the aid of the Association's State Chairmen, the Officers and Directors of the Association, and affiliated chapters and organizations. The response has been gratifying.



THE 1968 ANNUAL MEETING

The annual meeting of the Association was held in Philadelphia on 5 August 1968. About 100 members of the Association attended the business meeting held at the Civic Center Auditorium and 150 of the members and their guests attended the annual dinner held later in the evening at The Down Town Club.

Colonel Glenn E. Baird, President, presided. The highlights of the session were the reports of The Judge Advocates General, Major General Kenneth J. Hodson, Major General Robert W. Manss and Rear Admiral Joseph B. McDevitt, and Judge Homer Ferguson for the United States Court of Military Appeals. The reports of the TJAG's are fully reported in this issue of the Journal.

The results of the annual election of officers and directors showed the following were elected to their respective offices:

President: Capt. Hugh H. Howell, Jr., USNR, Atlanta, Georgia

First Vice President: Col. Maurice F. Biddle, USAF-Ret., Hyattsville, Md.

Second Vice President: Lt. Col. Osmer C. Fitts, AUS-Ret., Brattleboro, Vermont

Secretary: Capt. Zeigel W. Neff, USNR-Ret., Bethesda, Maryland

Treasurer: Col. Clifford A. Sheldon, USAF-Ret., Washington, D.C.

A.B.A. Delegate: Col. John Ritchie, III, USAR-Ret., Chicago, Illinois

Board of Directors:

Col. Gilbert G. Ackroyd, USA-Ret., Pennsylvania

Col. John F. Aiso, USAR-Ret., California

Capt. Gerald C. Baker, USAF, District of Columbia

Col. James A. Bistline, USAR, Virginia

Cdr. Richard A. Buddeke, USNR, Virginia

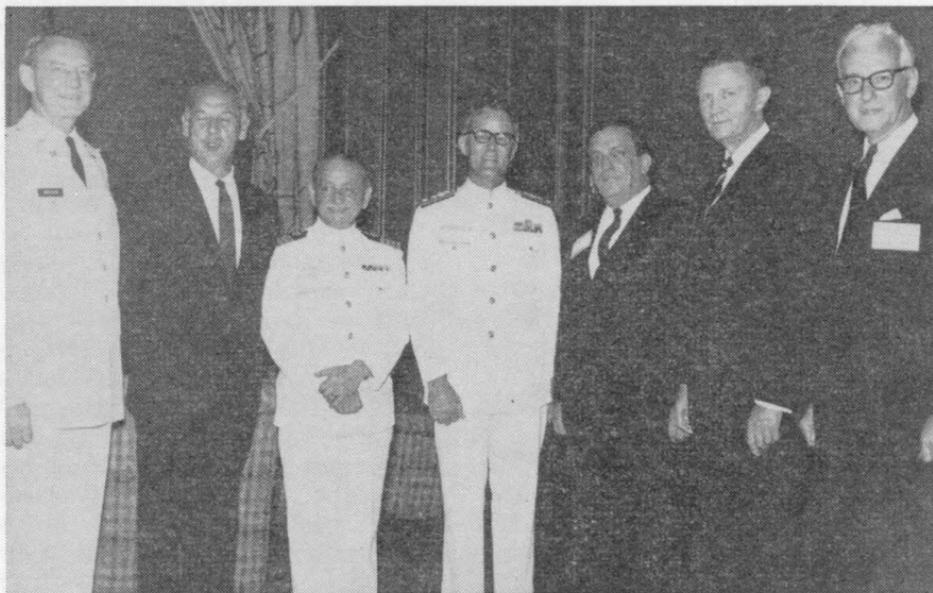
Capt. Anthony J. Caliendo, USCG, District of Columbia

Capt. Martin E. Carlson, USNR-Ret., Maryland

Brig. Gen. James S. Cheney, USAF, Virginia

Col. Edward R. Finch, USAFR, New York
Lt. Col. William S. Fulton, USA, Europe
Col. James A. Gleason, USAR-Ret., Ohio
Col. William R. Kenney, USAF, Maryland
Brig. Gen. William H. Lumpkin, USAF, Virginia
Lt. Col. Lenahan O'Connell, USAR-Ret., Massachusetts
Col. William E. O'Donovan, USA, Pennsylvania
Capt. Alexander W. Patterson, USA, Virginia
Col. Wilton B. Persons, USA, Virginia
Col. William L. Shaw, CAL-ARNG, California
Lt. Matthew J. Wheeler, USN, District of Columbia
Col. Ralph W. Yarborough, USAR-Ret., Texas

The past presidents of the Association and the incumbent and former TJAG's of the services will continue to serve on the governing



At the Annual Meeting: L to R General Hodson, Mr. Warnke, Captain Caliendo, Admiral McDevitt, Captain Howell, General Manss and Col. Baird.

body of the Association. The past presidents are: Cdr. Penrose L. Albright, USNR; Brig. Gen. Nicholas E. Allen, USAF-Ret.; Col. Daniel J. Andersen, USAFR-Ret.; Col. Glenn E. Baird, USAR-Ret.; Brig. Gen. Oliver P. Bennett, USAR-Ret.; Col. Franklin H. Berry, USAR-Ret.; Cdr. Frederick R. Bolton, USNR-Ret.; Brig. Gen. Ralph G. Boyd, USAR-Ret.; Major General E. M. Brannon, USA-Ret.; Capt. Robert G. Burke, USNR; Col. John H. Finger, USAR-Ret.; Col. George H. Hafer, AUS-Ret.; Major General R. C. Harmon, USAF-Ret.; Col. William J. Hughes, Jr., USAR-Ret.; Brig. Gen. Herbert M. Kidner, USAF-Ret.; Brig. Gen. Thomas H. King, USAFR-Ret.; Col. Allen G. Miller, USAFR; Col. Alexander Pirnie, USAR-Ret.; and Col. Gordon Simpson, USAR-Ret. The incumbents TJAG's are: Major General Kenneth J. Hodson, USA; Major General Robert W. Manss, USAF and Rear Admiral Joseph B. McDevitt, USN. Former TJAG's are: Vice Admiral Oswald S. Colclough, USN-Ret.; Major General Charles L. Decker, USA-Ret.; Major General Thomas H. Green, USA-Ret.; Rear Admiral Wilfred Hearn, USN-Ret.; Major General Albert M. Kuhfeld, USAF-Ret.; Major General Robert H. McCaw, USA-Ret.; Rear Admiral William C. Mott, USN-Ret.; and Rear Admiral Chester Ward, USN-Ret. Generals Brannon and Harmon, also former TJAG's serve on the board as past presidents.

The annual banquet was addressed by the Honorable Paul C. Warnke, Secretary of Defense for International Security Affairs. The full text of Mr. Warnke's address is set forth in this issue of the Journal. The banquet was held in the grand ballroom of the stately and beautiful Down Town Club on Independence Square. All arrangements were made by Captain Sherwin T. McDowell, a member of the Philadelphia bar and a member of this Association who served as general chairman of the Committee on Arrangements.



REPORT OF TJAG — ARMY

Major General Kenneth J. Hodson, The Judge Advocate General of the Army, made the following report to the members of the Association at the Annual Meeting in Philadelphia on August fifth:

At the outset, let me mention a few of the problems we have encountered in Viet Nam. We have three full-time law officers in Viet Nam, and I assure you that they are kept very busy. They are on the move constantly, riding the DMZ-DELTA circuit. We will probably send a fourth one very soon. We have, in addition, 100 judge advocates serving with the various units and offices throughout the country. Our toughest problem arises from the difficulties of communication and transportation. Mail and administrative messages move very slowly. It may take a week for a letter to go from a unit near the DMZ to Saigon. It takes from one to two hours to put through a phone call from Headquarters, U.S. Army Viet Nam, which is located just outside of Saigon, to Headquarters, Military Assistance Command-Viet Nam, which is in Saigon. Transportation is mostly by air, and, as you can realize, operational demands are heavy and receive priority. This means that judge advocates, including the law officers, must hitch rides in whatever aircraft—rotary or fixed wing—administrative or operational—is going in approximately the right di-

rection. Units are widely dispersed, and the legal assistance officers, as well as court-martial counsel, ride circuit almost constantly, for they must go to battalions and companies to carry out their duties. Incidentally, if you have a chance, I recommend that you see the Army Big Picture, entitled "Soldiers at Law." It gives a pretty good idea of judge advocate work in Viet Nam.

These difficulties of transportation and communication result in delays. Delays in the settlement of claims, in handling legal assistance, and perhaps most important, in the processing of court-martial cases. We encounter delays also—more so than in Korea or World War II—because of combat operations. I have noted in several records of trial the cryptic reporter's note, "The personnel of the court, counsel, and the accused recessed to nearby bunkers because of a VC rocket and mortar attack."

One incident that occurred recently involved a civilian witness who had agreed informally to go to Viet Nam from Boston to appear as a witness in a court-martial. The judge advocate who forwarded the invitational orders wrote the witness a short letter advising him that the area in which the trial would be held was reasonably secure, but that the possibility of a mortar or rocket attack still existed; that such an attack during the

past week had destroyed the courtroom and had killed three soldiers and wounded seven others. Incidentally, the prospective witness' wife opened this letter and she immediately countermanded the invitation-al orders.

Under the Foreign Claims Act, we can pay claims presented by friendly nationals for damage caused by us not resulting from combat. The first problem—and it is a difficult one—is how to tell a friendly Vietnamese from an enemy Vietnamese. Having solved that, we run into difficulty in determining whether the damage was the result of combat. In World War II and Korea, we had a rule of thumb that if a truck caused damage while going toward the front, it was combat connected; if the truck was going away from the front, we could settle the claim under the Foreign Claims Act. That rule doesn't help us much in Viet Nam. In Viet Nam, there really is no front, or if there is one, it is a 360 degree circle around one of our base camps. Thus a truck which is involved in an accident may be going to and returning from the front at the same time.

Our over-all military justice workload has expanded in about the same proportion as the increase in the size of the Army. In fiscal year 1965, we had some 43,000 courts-martial; in fiscal year 1966, we had nearly 50,000. Of the latter, we had 1900 general courts, almost 35,000 special courts; and more than 13,000 summary courts.

When Article 15 was amended in 1962 to give commanders increased punishing powers, including the power to impose forfeitures of pay on enlisted men, we thought that we might be able to eliminate summary courts. Since the effective date of the amended Article 15, we have reduced the number of summary courts from about 42,000 per year to 11,000. We have emphasized to commanders the desirability of using Article 15 instead of a summary court, but we doubt whether we can reduce the number much further. In the first place, about 2,200 trials involved people who refused to accept Article 15 punishment. The other trials, for the most part, involved people who had been punished under Article 15 several times, and the commander concluded that a short period of confinement might help to correct an offender. I might add, as a matter of information, that the acquittal rate for cases in which the accused had refused Article 15 was about three times the rate for the other cases. This difference in acquittal rates tends to show that the system of justice in our lowest court is reasonably fair.

We have established a Correctional Training Facility at Fort Riley. It accepts about 200 prisoners a week who have been convicted of military offenses and whose prospects for rehabilitation for further military service appear to be reasonably good. As this facility only opened on 1 July 1968, we have not had any experience in judging its effectiveness, but I have high hopes

that we may make effective soldiers out of 75 or 80% of the people who go there. They are mostly mixed up youngsters who deserve another chance to see if they can soldier, and we are giving it to them.

The House of Representatives unanimously enacted H.R. 15971 last spring, and this bill is now pending in the Senate, where it has been assigned to Senator Ervin's Subcommittee. It would provide single law officer special and general courts-martial if an accused waives a trial by court members, the convening authority consents, and the law officer approves. This legislation would also give the law officer essentially the same powers as a trial judge in a Federal Court, except that he would not have sentencing power unless he were sitting as a one man court. It would give the law officer the power to hold pre and post trial sessions of the court, without the necessity of assembling the court members, as is the case at the present time. We hope that Senator Ervin can find the time to help us with this legislation, as it makes many needed improvements in the Uniform Code of Military Justice.*

We are confronted with an unusually heavy litigation workload. The cases fall roughly into two categories: The first is the man who claims that he should not be in the service or that he should not serve in Viet Nam. These claims are sometimes based on conscientious objection, sometimes on

a promise by a recruiter that a soldier could serve his entire enlistment in Europe or CONUS, and sometimes on the basis that, as Congress has not declared war and neither the President nor Congress has declared a national emergency, there is no legal basis for calling up the reserves.

The second category of cases involves the man who is separated from the Army administratively and who claims that he should not have been separated, thus depriving him of a future financial gain through retirement, or that, while he has no objection to being separated, he feels that he should have been given an honorable discharge.

From what I can discover, I don't find that we had similar litigation problems during World War II or Korea.

You know from reading the papers and watching television that we have been called upon from time to time to aid the civil authorities in maintaining law and order. Providing legal support for these operations takes manpower; further, we must use our very best judge advocates on these missions. The planning that precedes these operations also serves to drain off much needed judge advocate manpower.

Now, in closing, I'll mention a few facts about our manpower situation. In the first place, all judge advocates now come on duty as captains. They agree to serve for

* Enacted into law since this report.

four years, and the prospect is that they will be promoted to major in about 3½ years. This favorable appointment and promotion situation may help us with our retention problem.

Out of a total strength of 1500 judge advocates, I have only about 500 career officers. The others have less than three years of service. This means that we are short of experienced officers. We have about the right number of colonels, but we are short from 30 to 35% in the grades of major and lieutenant colonel. The shortage of majors should be abated somewhat during the coming year, but the shortage of lieutenant colonels will probably get worse.

Although we had about 10 applications for each vacancy in the Corps last year, only a small percentage of these officers are likely to become career officers. Thus, most of the career officers of the future are likely to come from our Excess Leave Program. Under this program, Distinguished Military Graduates from ROTC and Regular Army officers with from 2 to 5 years of service are allowed to at-

tend the law school of their choice in an excess leave status. We have had 115 graduates from this program since 1962, and 102 of these are still on active duty. We have now tightened up the obligated period of service, so that the typical officer will have to serve 4½ years after he graduates from law school. DMG's who had ROTC scholarships will serve 5½ years. We have 105 in law school at present, and we have an average input of 35 per year. We would like to limit the program to Regular Army officers with two years of service, but there are just not enough of them. Out of the 35 per year input into the program, only about 1/3 are Regular Army officers who have served on active duty; the others are DMG's.

While we are short of experience, and while the retention problem is far from solved, I can assure you that we have high quality officers, and that we are getting the job done. In fact, you can be proud of your brother lawyers in uniform. They are serving with distinction and they deserve to be commended.



REPORT OF TJAG — AIR FORCE

Major General Robert W. Manss, The Judge Advocate General of the Air Force, reported at the Annual Meeting of the Association in Philadelphia as follows:

As of 30 June 1968, the number of Judge Advocates assigned to the Department was 1,223. Of the total assigned, approximately 52% are regular officers, 21% are career reservists (8% came on active duty in career status), and the remainder of 27% are the younger captains serving with an established date of separation.

Because of reduced authorizations resulting from the civilianization of former military spaces, the closure of CONUS bases and the phase out of U.S. bases in France, the direct appointment program was terminated on 30 September 1966. For FY 1969, our total requirements for new officers will be met by the use of ROTC graduates whose call to active duty had been delayed to permit them to complete their law school studies and be admitted to practice. Unless there is a significant increase in authorized spaces in the next year or so, it is not contemplated that we will need a direct appointment program until FY 1971 at the earliest. Accordingly, should any of you be contacted regarding opportunities for law graduates in the Air Force Judge Advocate General's Department, the proper advice is to tell the students that they should seek Air Force ROTC affiliation at the

earliest possible time. We will still require 75 to 125 new lawyers each year, but as I have indicated, the sole source of such procurement, with the exception of a handful of recallers, for the next two or three years will be from ROTC sources.

Notwithstanding the fact that we are able to meet our procurement quotas without difficulty, the retention of officers beyond their obligated tour remains our most critical problem. It is still running at approximately 14.5%. We are still engaged in self-help methods in an attempt to improve this rate. One example is the recent approval of a distinctive insignia for wear by all Judge Advocates. I am pleased to report that as a result of changes in the promotion points for line officers, we are now able to promote Judge Advocates to captain immediately upon their entering active duty. We have continued our practice of screening the records of reserve officers during their initial tour and of tendering regular appointments to the best qualified. Although we experience only a one-third acceptance rate from such tenders, I am convinced that we have picked up some career officers we would not otherwise have obtained.

Clearly, the pay differential between military and civilian lawyers continues to be the biggest obstacle to significantly improving our retention figures. Although the difference in pay is only \$1,200 or

so in the age 25-34 bracket, it rapidly increases until at age 60 the civilian lawyer is making \$17,000 a year more than his military counterpart, or expressed another way, he is making double the salary of the military lawyer.

I am convinced that retention will remain a serious and increasingly critical problem until such time as legislative relief is obtained in the area of the comparability of military and civilian pay for professionals.

As of 31 December 1967, the Ready Reserve of the Department consisted of 545 Mobilization Augmentees; 265 Reenforcement Designees (JAGARs); 50 unit members assigned to Troop Carrier organizations and 112 unit members assigned to the National Guard. Total Ready Reserve—971. Standby Reserve—1,102.

The Judge Advocate General's Area Representative Program (JAGAR) continued to be a productive part of our reserve training. During the period they rendered approximately 3,332 hours of legal assistance and gave lectures and moot court presentations.

Five Air National Guard previews of applicants were made and the applicants accepted. Three Air National Guard officers were assigned to the reserve of this Department.

AFL 110-2 was published and distributed on 20 November. This publication is a roster of JAGAR,

distributed to every Air Force installation in the world.

On 13 September, a "back-up" set of notebooks (one notebook with the reserve roster of each major air command) was established at the Air University, Maxwell Air Force Base, Alabama. Copies of all correspondence involving space authorization transfers are sent to Maxwell to insure the rosters are current.

I am happy to tell you that the Air Force continues to have no major problems in the area of military justice, despite the increase in our operations in Southeast Asia. On the other hand, there are some favorable developments.

A question frequently asked by Judge Advocates in recent years has had to do with the completion of the revised Manual for Courts-Martial. The Army, Navy, and Air Force have completed their updating project and the final copy has gone to the printer. The new Manual is now scheduled for publication in the fall, so that the new provisions may become effective on 31 December.*

After a long period of decline, the court-martial rate per 1,000 population in the Air Force seems to be leveling off. Our rate in calendar year 1958 was 31.3. Ten years later in 1968 it was 3.3—a decrease of nearly 90%. During the last two quarters of 1967, the overall court-martial rate was 0.79 per thousand population. However,

* Accomplished.

during the first quarter of 1968 it moved upward slightly to 0.84 per thousand—the same level which it reached in the first half of 1967.

Our success in achieving these favorable results may be attributed to a number of factors. As I informed you last year at Honolulu, notable among these has been the screening to identify members who do not meet minimum standards for retention in the Air Force, and the simplified discharge authority available under AFM 39-12.

Another asset in this regard has been the Retraining Group, now located at Lowry Air Force Base, Colorado. As of 31 March 1968, 24% of all Air Force prisoners were confined at the Retraining Group. Among those returned to duty from the Retraining Group, we have experienced an 89% success rate. Therefore, to the extent that the retraining program prevents further offenses by its "alumni," the Air Force court-martial rate is not increased by trial of individuals with prior convictions.

The success of the new Article 15 for non-judicial punishment has likewise continued to contribute to the decline in court-martial rates. Commanders' experience with increased non-judicial punishments has resulted in their continuing acceptance of this method of disposing of minor offenses. As a result, the use of summary courts-martial in the Air Force has been reduced to less than 1,000 trials a year. This forum is resorted to only in those few cases where the

Air Force member exercises his option to demand court-martial in lieu of non-judicial punishment.

The number of court-martial cases in which a punitive discharge was imposed decreased in the first six months of 1968 to 244, compared with 291 in the first six months of 1967.

Many times our airmen—especially the younger ones—are reluctant to inform their families that they have become involved in serious trouble until after trial or administrative separation. We have recently established a requirement for unit commanders to counsel individuals charged with a serious offense before military or civilian courts, to advise their parents or wives of their difficulties. Where the individual is under 21 years of age, the commander is required, in most cases, to write a letter to the parents, wife, or guardian setting out pertinent information concerning the circumstances of the case.

In view of the recent expansion of a suspect's right to counsel during interrogation, I have also established a policy that, if an accused requests counsel to represent him before a summary court-martial, military counsel will be made available for this purpose whenever practicable.

I will now discuss the activities of each of our Civil Law divisions in detail.

The Military Affairs Division renders opinions and gives advice on legal matters to the Air Staff, the Commands and their Staff

Judge Advocates, and to various individuals in their official, professional, or private capacity. Additionally, membership on nine permanently constituted boards and committees continues to occupy considerable time of this Division. These activities are the Central Security Board, Military Personnel Security Board, Physical Review Council, DOD Military Pay and Allowance Committee, Armed Services Individual Income Tax Council, Attorney Qualifying Committee, Grievance Appeal Board, Incentive Awards Committee, and the Welfare and Recreation Committee.

During FY 1968 this Division rendered approximately 48,000 opinions. This figure is less than last year, however, the decline can be traced to streamlined physical evaluation procedures which require JAG participation only in contested cases. Of the opinions rendered this year, more than 26,000 were in the nature of legal assistance, 11,000 were informal opinions, and the balance, in descending order, involved review of Physical Evaluation Board Proceedings, security review, incentive awards, and some 2,800 formal opinions on a variety of subjects. This latter category, which requires the most time, is up over 500 cases from the previous year.

Although statistics from Judge Advocates in the field are not available for this activity, it is the consensus that it parallels the trend experienced by this Division in the Office of The Judge Advocate General.

The International Law Division is responsible for advising the Air Staff on questions of international and foreign law, the international legal aspects of Air Force programs and, in conjunction with the Air Force General Counsel's Office, the drafting and negotiation of international agreements.

The Division monitors all civil suits filed in foreign countries and keeps the field advised of actions taken by Department of Justice and other responsible agencies. These civil cases against the Air Force include a wide range of litigation, including employment disputes and other labor law cases, tort cases and real property matters. Close cooperation with the Departments of State and Justice is required in suits against the U.S. Air Force in foreign countries.

The International Law Division receives reports of all criminal proceedings against Air Force personnel assigned to duty in foreign countries. The action taken by Air Force units in the field to protect the rights of military personnel charged by foreign authorities is closely reviewed to insure that every effort is made to provide assistance, including counsel fees and bail money, if appropriate, and to insure that in these cases where the alleged offense arose out of the performance of official duty, proper documentation is prepared withdrawing the case from the jurisdiction of local authorities. In the event a trial is considered unfair, recommendations are made through channels to the Department of

State that appropriate representations be made to that country to correct the injustice. As of 31 May 1968, 12 Air Force personnel were serving sentences of confinement in foreign penal institutions.

Legal advice on the negotiation of military base rights, status of forces and other bilateral agreements is a major activity of the Division. Included among the numerous draft proposals and agreements considered during the last fiscal year were agreements being negotiated with the Governments of Canada, Spain, Thailand, Turkey, Germany, Argentina, and the Philippines.

The conflict in Vietnam continued to raise many questions concerning the laws of war, including the treatment of prisoners of war. The Division works closely with the other services and the Department of Defense in developing the U.S. position on these questions.

The Division assists in the evaluation by the Government of various proposals for international agreements. During the fiscal year just ended, multilateral agreements were considered which have great effect on the international law of the sea (Maltese proposal for use of deep ocean floors), of the air-space (proposed amendments to the Warsaw-Convention), and of outer space (Assistance and Return of Astronauts and Liability Treaties). In the important area of arms control, the U.S. negotiated the nuclear non-proliferation treaty and the Treaty of Tlateleco (Latin American Nuclear Free Zone).

Last year we reported to you that the Civil Service Commission had proposed an executive order which would create a Career Personnel System for Attorneys. This proposal would establish a centrally coordinated Government-wide career system covering attorneys presently in Schedule A of the excepted service. Appointment, promotion, transfer, and other personnel actions would be on the basis of merit and fitness. Channels would be opened up for freer movement of attorneys across occupational and agency lines, and provisions would be made for training, continuing legal education, and professional activities. The services favor the proposal in principle, but object to external interferences with their management of individual lawyer personnel actions. Also, the services favor a provision for the assimilation of former military lawyers into the civilian program after termination of their active military service as Judge Advocates. This provision would give former military Judge Advocates credit for their military service in qualifying them for a position in the competitive service, thus placing them on a par with civil service employees with at least three years in the Career Personnel System for Attorneys. These and some minor comments have been submitted to the Civil Service Commission for their consideration. The proposal is still in interdepartmental coordination.

The Administration's proposal to increase active duty pay was passed

and implemented. It provides for three consecutive raises for both civil and the military, intended to place members of both departments on a par with their civilian counterparts and with each other. The first two raises have been received. The third and last raise would occur presumably next July. Included in the pay bill was the authorization to adjust retired and retainer pay when the Consumer Price Index has shown an increase of at least 3 percent for three consecutive months over the base index.

You will be interested to know that the Senate has passed a bill eliminating those provisions of law, rules, or regulations which attempted to impose a limitation on attorney's fees as a result of an award made in any administrative proceeding. The proposal is now in the House.

The Air Force Claims Division of the Office of The Judge Advocate General, like any large claims adjustment bureau, has branch offices throughout the United States. There are also Air Force claims personnel stationed in several foreign countries. The primary function of the Air Force Claims Division is to settle claims against the Air Force, and to assert claims in favor of the Air Force. The authority for the settlement and assertion of claims is found in a number of claims statutes and Air Force regulations.

The Air Force Claims Division in Washington, D.C. is responsible for the supervision of the Air Force world-wide claims organization.

During FY 1968 considerable time was devoted to studying and implementing the Federal Collection Act and the amended Federal Tort Claims Act. In order to supervise the Air Force world-wide claims operation, the Division arranges claims conferences with the major air commands, conducts staff visits and maintains almost daily correspondence with claims personnel in the field. The Division also has at its disposal a computerized Claims Data Management System which continues to be a useful tool in managing the claims operation. In order to promote uniformity in the processing of claims, the Division periodically participates in claims conferences with the sister services.

During FY 1968 we paid out \$7,682,717.78 in claims and collected \$3,777,128.21. The primary source of our collections is hospital recovery and carrier recovery claims. Hospital recovery claims, accounted for \$1,295,748.03, are claims in which the Air Force attempts to recoup the hospital and medical expenses incurred in treating service members and their dependents who are injured through the negligence of third parties. Through carrier recovery claims, the Air Force asserts subrogated claims against carriers and warehousemen for damages to household goods that occur during the shipment or storage of household goods which belong to members of the Air Force. During FY 1968, carrier recoveries amounted to \$2,285,011.21.

Claims against the Air Force originate in a variety of ways. One peculiar aspect of our claims operation is that we do, occasionally, in accordance with the Foreign Claims Act, make *ex gratia* payments on claims in which there is no legal liability attributable to the Air Force. The legislation providing for *ex gratia* payments was intended to promote and maintain friendly relations with the inhabitants of foreign countries. Air Force generated sonic booms are still a source of considerable claims. Moreover, the processing of sonic boom claims has required extensive liaison between the Claims Division and personnel of both Government and private industry who are engaged in the development and testing of the supersonic transport.

We believe that Air Force claims settlement authorities have adjudicated claims for and against the Air Force in an impartial manner, consistent with the letter and spirit of the laws and regulations governing such claims. The successful processing of vast numbers of claims inevitably requires close and regular contacts between Air Force claims personnel and the moving, warehouse and insurance industries, as well as with private attorneys representing claimants. Through these associations Air Force claims personnel have contributed and learned much that will promote the prompt, equitable and uniform settlement of claims.

The Patents Division controls and coordinates all patent, copyright, and trademark activities of

the Air Force, and also acts as liaison with other Government departments and agencies in such matters. In the former, representative activities include the handling of various legal, technical and administrative matters, among which are the investigation of claims for compensation for the alleged unauthorized use by the Air Force of patented inventions, the prosecution of patent applications, the recording of assignments and licenses, the making of patentability and validity searches, and advising Air Force personnel in patent matters. In the latter, the activities include assisting the Department of Justice in the defense of suits against the Government for alleged infringement of patents by or for the Air Force, advising other agencies of the Government in patent, copyright, trademark and procurement matters, and serving on various committees, subcommittees, and panels involved in some aspect or problem of patent law.

During the past fiscal year the Patents Division conducted about 360 searches, filed about 250 new patent applications, conducted the prosecution of from 500 to 600 pending applications before the United States Patent Office, disposed of about 80 infringement claims, assisted the Department of Justice in approximately 75 suits and handled approximately 2,000 new invention disclosures.

The number of new litigation cases in which the Air Force is involved has continued to decline as

compared to past years. During the past fiscal year, 254 new cases were received in the Division and 361 cases were closed. As of 1 July 1968 we had 578 active cases on hand. During the year, the Division collected \$966,000 on behalf of the Government and its instrumentalities.

In the area of general litigation, resort to injunctive relief continues as a problem although we have been generally successful in obtaining dismissal of these actions. New problems in this area are suits by personnel claiming conscientious objections to continued service whose applications for discharge are denied by the Secretary. Personnel from the Division continue

to represent the Air Force in labor arbitration hearings concerning labor unions seeking unit determinations.

In the torts area, court decisions have continued to reaffirm the rule that suits may not be brought against the Government under the Federal Tort Claims Act as a result of death or injury to certain categories of personnel. These categories include servicemen who are injured or killed incident to their military service; Civil Air Patrol members who are entitled to other Government statutory benefits as a result of their injuries; and Government civilian employees who are injured while acting within the scope of their employment.



REPORT OF TJAG — NAVY

The Judge Advocate General of the Navy, Rear Admiral Joseph B. McDevitt, reported to the members of the Association at the Annual Meeting in Philadelphia as follows:

The retention of military lawyers on a career basis remains a matter of grave concern in the Navy, and it appears that the problem will continue unless there is a dramatic reversal of the present trend. In only one of the last eight years has the Navy experienced a net gain in career officer lawyers. Every other year has seen a steadily increasing number of career lawyer retirements without a compensatory input of young careerists.

Significantly, as late as 1960, about 70% of the Navy's military lawyer strength was composed of career officers. The remaining 30% was made up of Reserve officers serving a 3-year active duty obligation. Since then, there has been a steady erosion of Regular officers. The percentage of Reserve officers serving an active duty obligation has doubled to 60%. Only 40% of the total strength is now composed of career officers. By 1972, it is estimated that the percentage of Reserve obligors can attain 70% or more if the number of voluntary retirements accelerates. This is highly probable since many senior officers are World War II personnel, eligible for retirement, who are now being attracted to the civilian community by the burgeoning economy.

There were several developments over the last year designed to assist in alleviating the shortage of career officers:

1. The establishment of the Judge Advocate General's Corps in the Navy. Prior to the establishment of the Corps, one of the complaints frequently voiced by young lawyers leaving the service concerned the lack of professional identity. The Corps is designed to provide a degree of identity and recognition not previously experienced by the Navy and Marine Corps lawyer.

2. The establishment of a recruiting program designed to give longevity credit to young men attending or planning to attend law school. College seniors and law school freshmen are commissioned ensigns in the Inactive Naval Reserve. When they have graduated from law school and are admitted to the Bar, they are ordered to active duty in the JAG Corps for an obligated term of four years. Under this program, 90 college seniors and 90 law school freshmen will be commissioned this year.

3. The establishment of a law option in the NROTC Contract Program. Each year, 40 students will be recruited to undertake the law option NROTC Contract Program either in college or law school. On completion thereof, they will be deferred from active duty until admitted to the Bar and then will

serve as judge advocates for four years.

It is hoped that these programs will provide a source of officers with career potential. Nevertheless, it is painfully obvious that these developments are not a complete panacea for our career officer deficit. Other and more meaningful incentives, particularly in the area of tangible benefits, are required if the Navy is to compete favorably with the civilian community for legal talent.

The accent on youth apparent in the active list of the Judge Advocate General's Corps is likewise apparent in its Naval Reserve counterpart. Membership in the 41 Naval Reserve Law Companies has increased strikingly to 800 lawyers. The bulk of this increase is attributable to an influx of young lawyers with little or no prior experience in the Naval Service who enter through direct commissioning. This injection of new blood, coupled with the concomitant retirement of our World War II veterans who have been the backbone of the Reserve program, has necessitated complete revamping of our Reserve training, with heavy emphasis now being placed on indoctrination in the basics of naval orientation and the fundamentals of military justice. Publication of a completely new curriculum for the Inactive Reserve lawyer is planned for November 1968.

There has been an extraordinary increase in interest in the development of the international law of the sea. The issues which have been raised are of direct concern

to the Navy. The Secretary, the Under Secretary, and the Assistant Secretary of the Navy for Research and Development are all involved in the formulation of U. S. policy on this subject. The establishment of the United Nations *Ad Hoc* Committee on the seabeds—which will reconvene this month—has cast upon the Navy the difficult task of assisting in preparing the United States to assume the burdens of leadership expected from the world's leading maritime state. Within the last year, we have been asked to participate in decisions by the United States to call for an international decade of ocean exploration, for the establishment of marine wilderness preserves, for the study of arms limitations on the seabed and ocean floor, and for the establishment of legal principles which would preserve the deep ocean floor as an area free from a neo-colonial land grab and from claims of sovereignty or sovereign rights.

Along our own shores numerous legal questions have risen from the increasing interface between the offshore oil industry and Navy operating, training and weapons development activities in nearshore areas. We have been active in developing procedures both to resolve existing conflicts and, through the establishment of a new continental shelf office, to allow the Navy to argue its case for use of nearshore areas effectively in the future.

In Fiscal Year 1968, the number of courts-martial in the Navy and Marine Corps continued to increase

significantly over prior recent years. The number of general courts-martial tried during the year totaled 832 as compared with 553 in Fiscal Year 1967, an increase of 279 cases or 34%. This was the largest number of general courts-martial tried in the naval service since 1959. The number of special courts-martial which adjudged bad conduct discharges totaled 3,055 as compared to 2,890 in Fiscal Year 1967, a 5% increase.

During the last year the Navy and Marine Corps have tried four civilians (three merchant seamen and one civil service employee) for crimes committed in Vietnam, ranging from murder to diamond smuggling. In the murder case, the accused, James Latney, who was sentenced by general court-martial to 15 years in prison, has unsuccessfully petitioned the U. S. District Court in Washington for release via habeas corpus. His appeal to the Court of Appeals is now pending.

Last year you were advised of the successful establishment of the Navy's first Law Center at Norfolk. The Center has been successful in providing the increased legal services which were its *raison d'être*. Last week the second Navy Law Center was established, on a pilot basis, at San Diego.

The increased workload previously noted in the area of military law is equally evident in many segments of civil law.

Admiralty. The caseload in this field has remained constant in the

800-case range. Settlements in the past year involved transactions amounting to some \$450,000. The Navy, in conjunction with her sister services, is seeking expansion of administrative settlement authority, regarding types of cases which may be settled, to coincide with liability to suit under the Suits in Admiralty Act (Public Law 86-77, 74 Stat. 912).

A most significant decision in the field of admiralty law was a holding by a Southern District of New York court that NATO SOFA provided admiralty personal injury and death claimants their exclusive remedy and that they, therefore, had no right to bring suit under the Public Vessels Act (*Shafter et al v. U.S.*, 273 F.Supp. 152; 1967 AMC 1337 (SDNY 1967)). The case now pends on appeal to the 2nd Circuit Court of Appeals.

Disability Retirements. Due to increased operational commitments in Southeast Asia, disability retirement cases rose to 12,037, an increase of 22.8% over the preceding year.

Tort Claims. Several large settlements of claims against the Government have been made this year, one totaling \$917,000. The larger claims seem to arise from aircraft accidents, but malpractice claims also are on the increase in dollar amount claimed each year. Since an administrative claim must be submitted under the provisions of the Federal Tort Claims Act prior to suit, the workload has increased and is expected to continue to increase for at

least another year. The number of claims by personnel arising from movement of household goods increased, as did the dollar amount claimed, inflation having affected the price of furniture, antiques, etc.

Medical Care Recovery Act Claims. In the past fiscal year the Navy collected \$1,530,044.02 under the provisions of the Medical Care Recovery Act (42 USC 2651-53). The steady increase in recoveries under this program may be attributed to the following factors: Civilian attorneys representing the Government's interests have become more familiar with the provisions and procedures of the Medical Care Recovery Act; the district legal offices have shown an increased efficiency in administering the Act; and naval hospitals have improved their reporting procedures on potential third party liability cases.

Sales and Use Taxes. In 1967, the Judge Advocate General of the Navy requested the assistance of the Justice Department in contesting the applicability of Connecticut's sales and use tax laws to purchases of tangible personal property by non-resident servicemen. On 11 July 1968, the U. S. Court of Appeals for the Second Circuit af-

firmed the District Court decision in *U. S. v. Sullivan*, 270 F.Supp. 236 (D. C. Conn. 1967), holding that non-resident servicemen are exempt from Connecticut's sales and use taxes. In all probability, the State will petition the Supreme Court for a writ of certiorari. Needless to say, this decision will have importance in all states with use taxes and in all states with sales tax statutes similar to Connecticut, i.e., with the legal incidence of the sales tax on the purchaser.

Trailer Taxes. A U. S. District Court has recently handed down in *U. S. v. Chester County Board of Assessment and Revision*, 281 F. Supp. 1001 (D.C. E.D. Pa. 1968) what may prove to be a landmark decision interpreting section 514 of the Soldiers' and Sailors' Civil Relief Act. Pennsylvania had attempted to characterize house trailers as "real property" for tax purposes if the trailers were connected to water, sewage, or electrical facilities. The court action, instituted by the Justice Department at the request of the Judge Advocate General of the Navy, concludes that regardless of the state characterization, the trailers retain their essential character of tangible personal property for purposes of the Soldiers' and Sailors' Civil Relief Act.



OUR CAPTURED MILITARY MEN — NEW AND OLD PROBLEMS *

The opportunity to speak at the Judge Advocates Association Annual Dinner provides an opportunity to pay something down on a considerable personal debt. As a neophyte General Counsel of the Department of Defense, I learned soon to rely heavily on the judgment and experience of the Judge Advocates General with whom I worked. I also developed a great respect for the dedication and quality of the legal work done by the uniformed lawyers of each of the Armed Services.

In my former job as General Counsel, I enjoyed the great privilege of having the United States as my only client. In keeping with the sound axiom that no man should seek to be his own lawyer, I have left with the General Counsel's Office and the Judge Advocates the general responsibility for taking good legal care both of the United States and of me.

But along with my general responsibility for International Security Affairs within the Department of Defense, I have assumed certain significant obligations to a very special group of clients. These are the American servicemen held captive on the other side of the world by foreign governments and by Hanoi's allied insurgents.

My particular interest in the subject of captured American servicemen derives not only from my legal training but from the fact that, just a year ago, the Deputy Secretary of Defense, Paul Nitze, appointed me as Chairman of the Department of Defense Prisoner of War Policy Committee. Appointment of this Committee did not represent the Department's first expression of concern for these American prisoners. That concern of course existed even in advance of the capture of the first American by the Viet Cong. Before the Prisoner of War Policy Committee was appointed, there was in existence an Interdepartmental Committee on Prisoner Matters, chaired by the State Department. This group was charged with the coordination of efforts to establish contacts with and obtain the release of Americans held prisoner by the Viet Cong and North Vietnam. It included representatives from the Department of Defense, the Joint Chiefs of Staff and the Military Departments.

The formation of our present Committee was an endeavor to concentrate the various resources available to the Department of Defense and to establish a single point of contact with other government

* The address of Honorable Paul C. Warnke, Assistant Secretary of Defense for International Security Affairs, to the Judge Advocates Association at its Annual Dinner in Philadelphia on 5 August 1968.

agencies. Our members include representatives of the Secretaries of the Army, Navy and Air Force, the Chairman of the Joint Chiefs of Staff, the Assistant Secretary for Manpower and Reserve Affairs, the Assistant Secretary for Public Affairs, the General Counsel and the Director of the Defense Intelligence Agency. Our Charter directs us to coordinate all on-going prisoner of war programs, develop plans and policies and recommend courses of action. The specific areas of our concern are prisoner of war welfare, correlation and analysis of information, assistance and information for families, and planning for recovery and repatriation.

As you know, the principal responsibility for activities affecting American prisoners of war resides in the Department of State and has been under the general supervision of Ambassador Averell Harriman, who has served as President Johnson's special representative in this field. Governor Harriman has had this responsibility for matters relating to captured American servicemen for over two years. In his present capacity, as our chief negotiator in the talks with Hanoi in Paris, he has repeatedly made clear his personal interest and concern for our prisoners of war.

Governor Harriman is accompanied in Paris by an old colleague of the Judge Advocates, Cyrus R. Vance, who served as General Counsel of the Department of Defense before being Secretary of the Army and then Deputy Secretary of Defense. This background

has given him an intimate familiarity with the problems of captured military men.

As you know, our present problems are not confined to Vietnam. In the past few years, American servicemen have also been taken captive in North Korea and in Communist China. In considering the work of the Prisoner of War Policy Committee during the past year, I have to admit to a feeling of deep frustration and even of futility. At times I think that, were I in the position of my prisoner of war clients, I would be strongly tempted to invoke the 6th Amendment and complain that I had been deprived of adequate representation by counsel. For the disturbing fact is that, in many of these cases, we have been able to do very little to enforce the rights of American captives.

The problems involved in protecting these rights vary appreciably from situation to situation. Let me cite a few recent examples.

—230 American servicemen on July 1, 1968 were aboard a chartered commercial DC-8 jet transport on their way to serve their country in Vietnam. The plane strayed over claimed Soviet airspace, MIGs appeared and in a few minutes the American servicemen found themselves captives or at least "guests" of the Soviet Union on the obscure island of Etorofu in the Kuriles, north-east of Japan.

—At intervals whose frequency is cause for concern, someone

pulls a gun aboard a commercial flight in the United States and directs a change of routing to Havana. It's a rare commercial flight that doesn't carry some US military personnel.

—Several months ago off the coast of North Korea, a US Navy intelligence collection ship, the USS PUEBLO, was attacked, boarded in international waters and taken into Wonsan Harbor by the North Koreans.

—At least two American servicemen from military aircraft which strayed over Communist Chinese territory are presently captives of Peking. Seven others on these planes are listed as missing in action.

—Almost four years ago, the first US pilot was shot down over North Vietnam and captured. Since then, hundreds of other pilots are believed to have joined him in this state of captivity in North Vietnam. How many hundreds have done so we can only guess—because Hanoi refuses to provide a list of US military men it holds captive.

—A US Landing Craft, LCU 1577, with 11 American soldiers on board is at present detained by the Cambodian Government after it inadvertently crossed the Cambodian frontier on the Mekong River. We are working to obtain the release of this craft and the men through the Australian Ambassador in Phnom Penh who has accepted responsibility for the protection of American interests since the break

in diplomatic relations between Cambodia and the United States. In view of these sensitive negotiations, I don't think it would be useful for me to discuss this matter further, except to express our hope that the problem will be rapidly solved. Previously, a Philippine tugboat had made the same navigational error. The intrusion of the tug, with two American military servicemen on board, was immediately explained to the Cambodian Government. Prince Sihanouk released the Philippine crew and returned the tug to their government. Adopting the tragic death of Senator Robert Kennedy as his occasion for doing so, he also released the two Americans.

Other of these situations have also worked out satisfactorily. In the case of the commercial air transport in the Kuriles, we were able promptly to assure the Soviet Union that the intrusion on their air space was wholly inadvertent and they, just as promptly, allowed the aircraft to depart with our servicemen for Japan. The unprogrammed Caribbean excursions have meant for our servicemen and the other passengers no more than a brief sojourn in a Havana airport, a quick Cuban cigar, and a delayed arrival at their original American destination.

There is as yet unfortunately no such happy ending for the crew of the PUEBLO held in North Korea and the two officers held in Communist China. And

most of the Americans captured by the North Vietnamese and the Viet Cong have not even been acknowledged by the enemy as being in its hands.

The PUEBLO crew presents a uniquely troubling problem. Some speculation in the press has centered on the question why the United States Government does not, as it did in the case of the plane in the Kuriles and the vessels in Cambodian waters, apologize for an intrusion and hence hopefully secure the release of our military personnel. The facts surrounding the capture of the PUEBLO and its men, however, are very different from those involved in these other incidents. There can be no doubt that the PUEBLO was operating in international waters at the time of its seizure. It was well outside the 12-mile limit claimed by the North Koreans—although, as you know, the United States recognizes no claim of territorial waters beyond three miles from a coastline. Moreover, we do not concede any right on the part of the North Koreans to take an American naval vessel and its crew into custody even if there had been any intrusion into what they claim as their territorial sea. Their characterization of the PUEBLO as a “spy ship” can give no color of legality to their seizure of a clearly identified ship of the U.S. Navy openly operated by uniformed personnel.

In this case, however, the very outrageousness of the North Ko-

rean behavior makes difficult any attempt to cope with it in accordance with the established procedures governing relations between civilized nations. We have been furnished with no credible evidence which would justify an apology to North Korea. Alleged confessions under coercive circumstances obviously can receive no credence. We have no reason to believe that the Captain of the PUEBLO at any time deviated in the least respect from his clear orders to stay outside the territorial waters claimed by the North Koreans. We must therefore continue to insist that the surviving 82 members of the PUEBLO crew be released and an impartial investigation be conducted to determine whether in fact the PUEBLO at any time accidentally operated within North Korean waters.

Continuation of our diplomatic efforts presents, in our view, the best chance of getting these men back safely. Their well-being could only be jeopardized were we to yield to impatience and understandable outrage and seek to take some other form of action.

The Air Force pilot and the Naval officer in Communist China present a quite special case because of the absence of normal relations with the Peking regime. We shall persist, through such channels as are available to us, in seeking to ensure their welfare and to bring about their early release.

The great majority of our captured military personnel, and hence the greatest share of our attention, are concentrated in Vietnam. Our primary interest and main effort has been to make North Vietnam abide by its responsibilities as outlined in the 1949 Geneva Convention Relative to the Treatment of Prisoners of War, a Convention to which North Vietnam became a signatory on June 28, 1957. All avenues leading to this goal and to the eventual safe recovery of our captured servicemen are continually being explored.

The first big hangup is the dispute over the status of American military men who are shot down and captured in North Vietnam. North Vietnam has persistently argued that these men are "air pirates" or "criminals" subject to punishment according to their laws. At one time in July of 1966, Hanoi even threatened to begin trials of these pilots as war criminals. The outcry this threat evoked throughout the world apparently induced them to reconsider. Although these war trials have not been held, North Vietnam continues its claim that these captured American members of the uniformed Services are criminals and not prisoners of war. We have maintained consistently that under the provisions of the Geneva Convention these men are prisoners of war entitled to its full protection. Hanoi's arguments that they are not prisoners of war are without

legal validity and seem to me to be utterly frivolous.

American military personnel were captured by North Vietnam as uniformed members of the United States Armed Forces. As such, they clearly qualify as prisoners of war under Article 4A (1) of the 1949 Convention, which covers members of the armed forces of a Party to the Conflict.

The Hanoi Government has also sought to argue that the Convention does not apply in the absence of declared war. But Article 2 of the Convention specifically states that it shall apply "in all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them." Although there have been no declarations of war in the conflict in Vietnam, it is clearly an "armed conflict" between parties to the 1949 Convention, and has been so declared by the International Committee of the Red Cross.

The 1949 Geneva Convention on Prisoners of War requires that its signatories provide names of prisoners they hold to the International Committee of the Red Cross or to another neutral, impartial entity. The United States has repeatedly sought—through international, governmental, and private intermediaries—to secure such lists of Americans held captive. Hanoi has not responded. For its part, the South Vietnamese Government—with our co-

operation — has provided such lists to the ICRC.

Article 8 of the Geneva PW Convention provides for a Protecting Power for prisoners of war. Again, North Vietnam has rebuffed all efforts to fulfill this requirement of the Convention. In the absence of a Protecting Power, the Detaining Power is obligated to accept the offer of services of a humanitarian organization such as the International Committee of the Red Cross to assume a Protecting Power's functions. North Vietnam has rejected the ICRC's offer to fulfill this responsibility.

Articles 71 through 76 of the Geneva Convention guarantee the right of prisoners of war to send and receive letters. North Vietnam has sharply restricted mail facilities for the American PWs. Only a few have been permitted to send letters to their families and there is reason to speculate that mail privilege rights may be used selectively to bring pressure on captured Americans.

The ICRC has forwarded some 80 letters a week—a total of more than 9,000—addressed to United States military personnel held prisoner in Vietnam. But there has been virtually no indication that the letters have actually been delivered to the addressees. These facts refute the occasional unsupported claims by Communist journalists that there is "lively mail correspondence" between the PWs and their families.

Families of the PWs have attempted to send small personal gift packages, which prisoners of war are entitled to receive under the provisions of the Geneva Convention. In 1966, our best information is that all Christmas packages sent by families to PWs in North Vietnam were returned. Of the 465 packages sent last Christmas, 457 came back with the curt marking "refused by the postal service of Vietnam." The packages had been correctly addressed and sufficient postage was affixed. We have no information to date indicating that any of the few remaining Christmas packages were in fact delivered.

Hanoi has consistently refused to allow the ICRC or any other neutral intermediary to enter North Vietnam for the purpose of visiting the prisoners and inspecting their places of detention. This stubborn resistance to ICRC visits violates Article 26 of the Geneva Convention and calls into question Hanoi's repeated claims that it is according the American PWs "humane treatment." Certainly, the denial of mail privileges in itself must be regarded as a form of mistreatment.

The ICRC has repeatedly called the attention of the Hanoi Government to its obligations under the 1949 Convention. The ICRC has asked North Vietnam for lists of prisoners, for improved facilities for mail and packages, for the right to visit prisoners, and for other opportunities to

validate the claim of humane treatment. North Vietnam has ignored or rebuffed the ICRC's attempts. For its part, the Government of South Vietnam—with United States support—has cooperated fully with the International Committee of the Red Cross in these respects. Sick and wounded North Vietnamese troops have been repatriated, although Hanoi would not even acknowledge their presence in the South. But Hanoi has failed to honor its own obligation under Article 109 to repatriate badly injured American pilots.

As Chairman of the Department of Defense Prisoner of War Policy Committee, I am deeply disturbed by the adamant refusal of the Government of Hanoi to abide by these fundamental protections of the Geneva Convention. Claims that captives are humanely treated, unconfirmed by impartial inspections, are a poor substitute for compliance with these guarantees.

The callousness of North Vietnam's attitude is graphically demonstrated by the fact that this evening our casualty list carries the names of 305 members of the US Armed Forces in the status of captured. There is no question in my mind that North Vietnam has many more than that number in custody. Our casualty list shows almost one thousand men in the "missing" category. Many, we believe, are not in fact missing; they are simply un-reported by their cap-

tors. This was confirmed in February when Hanoi released three pilots. Of the three, one had been carried on our casualty rolls as "missing." The first notice his wife and family received that he was alive was North Vietnam's announcement that he was being released. And some weeks ago when Hanoi reported to our delegation in Paris that it was releasing three additional pilots, the families of two more carried as "missing" learned for the first time that their loved ones were alive and had been captured. The senseless suffering and anxiety caused these families and many others give the legal implications of prisoner of war "status" a quality of urgency and compassion.

These three pilots finally left North Vietnam last Friday—two weeks after the arrival in Hanoi of the American peace organization representatives who acted as their escorts. We welcome this release and hope that the other prisoners, most of whom have been held captive for much longer periods, will at least be enabled soon to communicate with their families.

In sharp contrast to the practices of North Vietnam, the Government of the Republic of Vietnam and the other Free World Forces in Vietnam are abiding by the provisions of the Geneva Convention. The Government of South Vietnam is responsible for the treatment of North Vietnamese and Viet Cong PWs subject

to the residual responsibility of the United States for prisoners captured by its forces.

The nature of this conflict, where the aggressor blends readily with his victims, leads to frequent difficulties in properly classifying the "captives" taken during military operations. To avoid confinement of the innocent, all "captives" are classified initially as detainees. After screening and interrogation they are classified as:

1. PWs, who are confined to PW Camps of the Army of Vietnam;
2. **Civil Defendants** — spies, saboteurs and terrorists—who are processed through the Vietnamese civil court system for disposition;
3. **Returnees or Hoi Chanh**s, who are processed through Chieu Hoi Centers for rehabilitation and release;
4. **Innocent civilians**, who of course are released and returned to their place of capture.

Six PW camps are in operation in the Republic of South Vietnam, the largest located on the island of Phu Quoc. Delegates to the International Committee of the Red Cross regularly inspect these PW camp operations and activities and have uniformly expressed approval of the treatment accorded the prisoners by

the Government of South Vietnam.

Recently members of the press visited these camps within the limitations imposed by the Geneva Convention provisions which protect a PW from public curiosity. These visiting pressmen expressed general satisfaction about treatment and conditions in the camps.

In opposite vein, the government in Hanoi has participated in the sale of propaganda films of American prisoners of war to television networks and other news media. The trafficking in these films is a clear violation of the rights of prisoners of war.

These same rights exist in the case of the American servicemen held by the Viet Cong. The fact that the Viet Cong are insurgents directed by Hanoi, and not an established government entity, does not relieve them of their obligations under the Geneva Convention, which both North and South Vietnam have signed. In any conflict which has developed an "international character", the rights and duties of insurgents include all the provisions of the Convention.

Nor is there any need to debate legal niceties as to whether the PUEBLO crew are prisoners of war in the literal sense. There can be no question of their right to humane treatment and no doubt that this right has been flagrantly flouted by the North Korean Government. Every pertinent principle of international

law condemns their action in holding the military personnel of another country incommunicado, without mail privileges, without access by the International Committee of the Red Cross or other international organizations. The obvious illegality of the seizure in this instance certainly lends no support to the according of treatment less favorable than that guaranteed to the forces of one combatant when taken prisoner by the adversary.

With respect to our captured military men in Communist China, as well, there can be no possible doubt of their right to treatment equivalent to that afforded to prisoners of war. As to the two known to be prisoners, there has been at least some limited exchange of mail and packages. We regret and we protest the failure of Peking to provide information regarding the seven men whom we list as missing in action. We continue to urge that the Chinese leaders provide us speedily with all available information and that they release to us the military personnel presently in their custody.

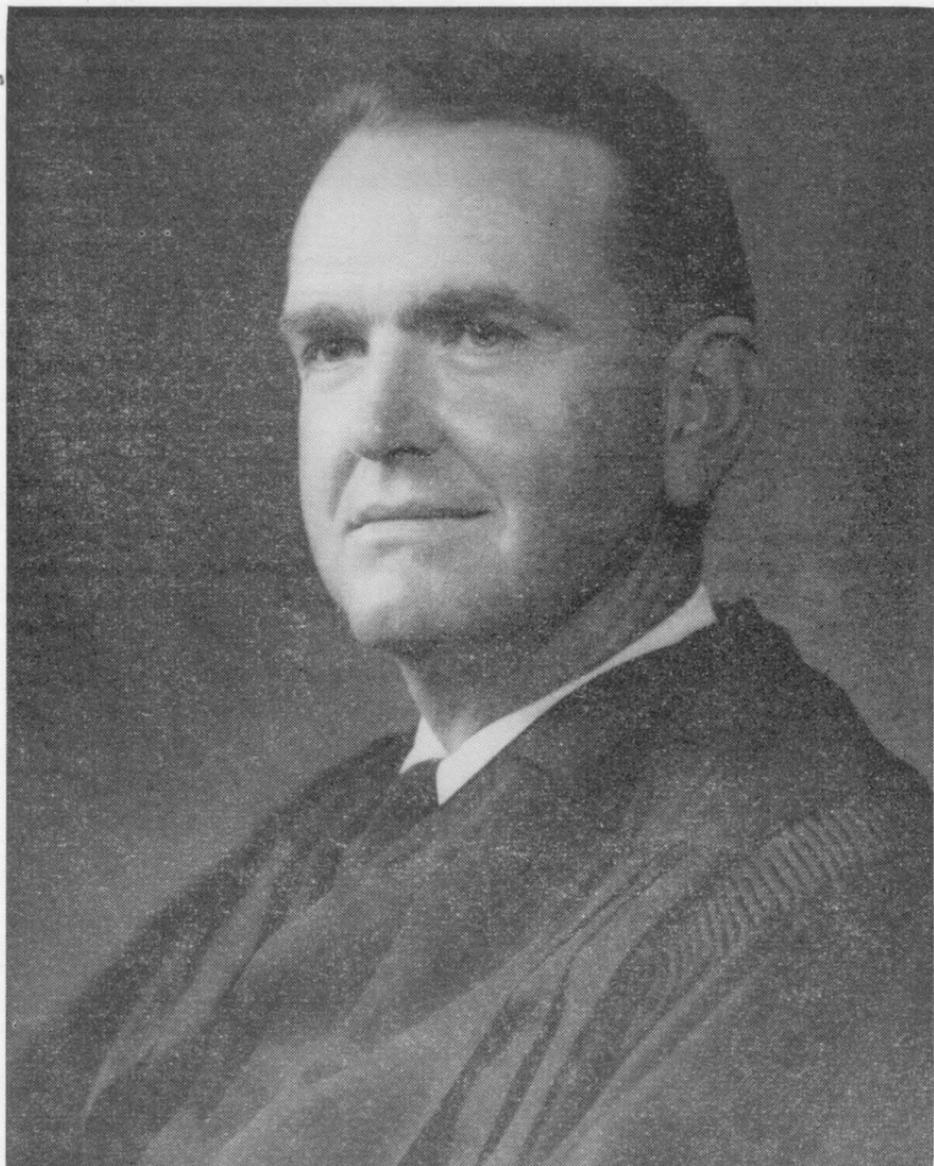
As for the captured servicemen held by the North Vietnamese and the Viet Cong, we demand and we expect that our adversaries will begin to comply with the rules of war developed over mankind's often painful history

and embodied in the Geneva Convention. They face today, as do we, a challenge to their humanity which is as old as war itself.

In an earlier age, the heat and hatred of combat carried over to the treatment of the disarmed prisoner. The Lords of the Philistines, the Bible recites, gathered to rejoice because "our god has given Sampson our enemy into our hand." With time came awareness that some of the horrors of war could and should be abated.

The ultimate test of a civilized world will be its ability to resolve differences without war. Until that day comes, a significant test for a civilized nation is the way it treats enemy prisoners. Animosity between nations cannot excuse inhumanity to those whose only offense is that they sought to serve their country.

In Vietnam, we and our Allies are seeking scrupulously to accord to enemy prisoners the rights recorded in the Geneva Convention. Similar recognition of their responsibilities by the rulers of North Vietnam would relieve much of the burden borne by our captured military men and those who wait their return. It could also do much to create the kind of climate in which progress might be made toward resolution of the conflict.



Judge William H. Darden, U. S. Court of Military Appeals

DARDEN NAMED CMA JUDGE

William H. Darden was appointed judge of the United States Court of Military Appeals on 5 November 1968 to succeed the late Judge Paul J. Kilday. Judge Darden took the oath of office on 13 November and his appointment was confirmed by the Senate on 14 January 1969.

Judge Darden is a native of Georgia. He received his B.B.A. ('46) and L.L.B. ('48) degrees from the University of Georgia. He was admitted to the bar of the State of Georgia in 1948.

He served with the U. S. Navy from 1943 to 1946, attaining the rank of Lieutenant (jg). He served as Secretary to U. S. Senator Richard B. Russell from December, 1948 to April, 1951 and then became Chief Clerk of the U. S. Senate Committee on Armed Services in which office he served until February 1953. From 1953 to his judicial appointment, Judge Darden was Chief of Staff, U. S. Senate Committee on Armed Services.



Rear Admiral Joseph B. McDevitt, The Judge Advocate General of the Navy.

THE JUDGE ADVOCATE GENERAL OF THE NAVY

Rear Admiral Joseph B. McDevitt was appointed The Judge Advocate General of the Navy on 1 April 1968. A native of Arkansas, Admiral McDevitt obtained his B.A. and L.L.B. degrees at the University of Illinois in which state he was admitted to practice. In 1942, he attended the Midshipmen's School at Columbia University and was commissioned an ensign in the United States Navy Reserve in March 1943. He entered the Navy legal program in 1946 and served in legal billets successively with the Eighth Naval District; Amphibious Force, Atlantic Fleet; Military Justice Division, OJAG; Naval Liaison Officer to the U. S. Senate; and SJA Marine Corps Schools.

In 1958, Admiral McDevitt graduated from the Navy War College and thereafter served with the

Joint Staff of the Joint Chiefs of Staff. In 1962, he returned to OJAG as Director of the International Law Division. From May 1965 until his assumption of duty as TJAG, he served as Legal Affairs Officer on the staff of Commander in Chief, Pacific.

Admiral McDevitt has been awarded the Purple Heart for wounds sustained in the invasion of Saipan and the Legion of Merit. He is a member of the American Bar Association, the Illinois State Bar Association, the Federal Bar Association, the Inter-American Bar Association, the American Society of International Law and the Judge Advocates Association, of which last named organization he is an active and interested member of the Board of Directors.

Admiral and Mrs. McDevitt reside in McLean, Virginia with their eleven children.



Rear Admiral Donald D. Chapman, The Deputy Judge Advocate General
of the Navy

THE DEPUTY JUDGE ADVOCATE GENERAL OF THE NAVY

Rear Admiral Donald D. Chapman assumed duty as The Deputy Judge Advocate General of the Navy on 1 May 1968. Admiral Chapman, a native of Texas, received his B.A. degree at Texas Technological College and his L.L.B. from the University of Texas. He attended the U. S. Naval Reserve Midshipmen's School at Northwestern University and was commissioned an ensign in December 1942. He served during World War II as a general line officer successively in the Caribbean, the Atlantic and the North Pacific.

Admiral Chapman entered the Navy legal program in 1946. Thereafter he served in legal billets in the Eighth Naval District; Am-

phibious Force, U. S. Pacific Fleet; Military Justice Division, OJAG; Atlantic Fleet; Administrative Law Division, OJAG; Fourteenth Naval District; Navy Board of Review, OJAG; and finally as Director, Administrative Law Division, OJAG.

He is a member of the Bar of the State of Texas; and, a member of the American Bar Association, the Federal Bar Association, the Inter-American Bar Association and the Judge Advocates Association.

Admiral and Mrs. Chapman reside in Arlington, Virginia. They have two sons, Ronald, a graduate of the U.S. Naval Academy, and Randall, a student at the University of Houston.



**Brigadier General Harold E. Parker, Assistant Judge Advocate General
for Military Law.**

ASSISTANT JUDGE ADVOCATE GENERAL OF THE ARMY

The Army's Assistant Judge Advocate General for Military Law is Brigadier General Harold E. Parker. A native of New York, General Parker received his B.A. degree from Cornell University and was commissioned in the Army Reserve a Field Artillery officer in 1939. Following an active World War II service as a field artillery officer, General Parker graduated from Stanford University School of Law in 1951 and began his military law duties in that year in the office of

the SJA, Sixth U.S. Army. Since 1951, General Parker has filled various and important assignments as a judge advocate, has graduated from the Command and General Staff College and the Army War College. He has filled his present assignment since August 1967.

General Parker is a member of the California State Bar and is an active member of the American Bar Association, the Federal Bar Association and the Judge Advocates Association.

1968 LAW DAY USA — AT THE PENTAGON

Earl F. Morris, President of the American Bar Association, addressed the Law Day ceremony at the Pentagon on May 1, 1968. The ceremony was jointly sponsored by the Federal Bar Association, Pentagon Chapter, and the Judge Advocates Association. Mr. Morris is a charter member of the Judge Advocates Association. He spoke as follows:

It is appropriate that at this hour we observe Law Day USA, for the theme of Law Day 1968 is:

“Only a lawful society can build a better society”, and never before in its eleven-year history has the meaning of Law Day borne greater significance. For not only are we here to commemorate the twenty-fifth anniversary of the founding of a program designed to build a better military society by making it a more lawful society, but we meet in a time of almost unprecedented civil strife, when disorder and insurrection threaten to inflict irrevocable havoc on the physical fiber of our cities and on the moral fabric of our society.

In the spring of 1943, when it became apparent that the mobilization of large numbers of civilians into the armed services was creating a great need for personal legal services, the American Bar Association and the military departments collaborated in initiating the Military Legal Assistance Program, in order

that professional legal advice be made available to all members of the armed forces and their families. Though the program was established in the midst of World War II, it has thrived through wars both hot and cold, and many millions of servicemen and their dependents have experienced its benefits.

When the legal assistance program was inaugurated, it was recognized that the need for legal services would be fulfilled by judge advocates and by civilian lawyers who were to be enlisted in the endeavor by bar associations. But it was particularly important that a simplified and uniform method of communication be instituted between the serviceman and the lawyers, both military and civilian. The Army Legal Assistance Plan, and later a similar system for members of the Navy, Air Force, Marine Corps and Coast Guard, both created through a cooperative effort between the armed services and the American Bar Association, provided that uniformity—such uniformity, in fact, that it has been possible to operate a single coordinated program of legal assistance for all servicemen and their dependents, regardless of branch of service or locale of station.

For twenty-five years, military lawyers have willingly responded to the opportunity for service in

a manner which has reflected great credit on both the armed services and the legal profession; and civilian lawyers, stimulated by the activities of the ABA and state and local bar associations, have supported the program in a way that redounds to the honor of the organized bar and our calling.

In the quarter century since the legal assistance program began, it is estimated that more than 25 million servicemen and members of their families have been served at military bases all over the world and in the private law offices of civilian lawyers cooperating in the joint effort. Actually, precise tabulations of the military and private phases have been impossible to maintain, and the emphasis has been on services rendered rather than record-keeping.

Although lawyers operating through Military Legal Assistance have represented countless servicemen and their dependents in a broad range of matters, the number of cases might have been even higher were it not for an active program of preventive law conducted by the armed forces. Within this aspect of the program, the serviceman is educated to avoid legal difficulties, through orientation briefings and the distribution of pamphlets on many subjects relating to the everyday problems which he might encounter.

The American Bar Association is gratified that it has been a part of the Military Legal Assistance Program, and through our

committee, currently called the Committee on Legal Assistance for Servicemen, the ABA has encouraged participation by bar associations and individual lawyers all over the country; has published a digest of laws pertaining to legal problems often faced by servicemen; has sponsored legal assistance conferences for military and civilian lawyers; and has proposed a number of innovations designed to stimulate the preventive law program.

Interestingly, the Military Legal Assistance Program was a precursor of the monumental program, set in motion four years ago, to broaden greatly the base of legal services to the poor of our nation. Both, Military Legal Assistance and the Legal Services Program under OEO, represent striking examples of close and harmonious cooperation between the agencies of government and the private and independent legal profession. Both have succeeded, and are succeeding now, in bringing the benefits of legal counsel to millions of Americans who otherwise would not have access to them.

And in a larger sense both are a part of the urgent task we face as a nation to meet through the processes of law and justice the requirements of our rapidly changing social order. We must—as the legal profession is now moving vigorously to do—accelerate our efforts to make equal justice under law reality and not mere rhetoric.

Even as I say this, I must note that the civil disorders that swept over Washington and many other cities just a few weeks ago are a distorted manifestation of the cry for a just redress of grievances. Violence was perpetrated not only upon person and property, but senseless action has impeded the legitimate hope of the Negro for attaining as rapidly as possible the equal share of the benefits of American society to which he is justly entitled.

It cannot be denied that for many generations white America was largely indifferent to the plight of the Negro. It cannot be denied that white slum merchants have taken advantage of the Negro's helplessness. But we must reaffirm the equally undeniable fact that there are millions of whites of good will all over the country, just as there are millions of Negroes who want to accomplish their goals, as individuals and as a race within American society, peacefully and constructively. These people know that mob action does nothing to advance a cause or resolve an issue or attain human dignity.

The challenge of our time—to find solutions to the questions that stand in the way of harmony between Negroes and whites—is to every individual American, to private enterprise and to the great institutions of our society: the law enforcement agencies, the courts, the government bodies, the whole panorama of authority at every level.

A lawful society is unquestionably the key to America's effort to build a more mature, more understanding, more intelligent, more just society—in a word, a better society. Every citizen has the right to demand that society and its institutions respond to his quest for individual rights and individual dignity, but in exchange for these guarantees and privileges, society has the right to demand that every citizen obey the law.

America is approaching the point of no return. Whether we will pass that point and travel into a dark abyss, or whether we will return to peace and rebuild our society, depends on each of us. The problems cannot be resolved quickly, and they cannot be resolved merely with money; they require dedication, they require good will, they require hard work by everyone, Negro and white together.

On this twenty-fifth anniversary of the Military Legal Assistance Program and as we wish for its future success, we do so because efforts to build a better society is directly related to the work in which we all must participate: to build a society for America based on peace and justice and the willing acceptance of the responsibility to maintain them. This is the truly lawful society to which and for which we must all strive if this country is to measure up to its complete, its glorious, its God-given destiny.

In Memoriam

Since the last publication of the Journal, the Association has been advised of the death of the following members:

Capt. Willedd Andrews, CAL.N.G.-USAR-Ret. Los Angeles, California

Brig. Gen. R. F. Deacon Arledge, N.M.N.G.-USAR-Ret.
Albuquerque, New Mexico

Col. Francis A. Brick, USAR-Ret., New York, N.Y.

Col. Parnell J. T. Callahan, USAR, New York, N.Y.

Col. Lawrence S. Carlson, USAR-Ret., Seattle, Washington

Col. Joseph F. Corrigan, USAF, Arlington, Virginia

Col. Charles R. Fenwick, USAR-Ret., Arlington, Virginia

Lt. Col. Joseph C. Higgins, USAF, Camp Springs, Maryland

Capt. John J. Horey, USAR-Ret., Hornell, New York

Col. R. E. Kunkel, USAR-Ret., Miami, Florida

Lt. Col. Ralph E. Langdell, USAR-Ret., Manchester, New Hampshire

Lt. Col. Percy A. Matthews, USAFR-Ret., Washington, D.C.

Major Carroll R. Runyon, USAR-Ret., St. Petersburg, Florida

Col. David H. Shearer, USAR-Ret., Rochester, New York

Cdr. John J. Sullivan, USNR-Ret., Chicago, Illinois

Col. Fulton C. Underhay, USAR-Ret., Boston, Massachusetts

Col. Claire D. Wallace, USAF-Ret., Albuquerque, New Mexico

The members of the Judge Advocates Association profoundly regret the passing of their fellow members and extend to their surviving families, relatives and friends, deepest sympathy.

JUDGE KILDAY DIES

Judge Paul J. Kilday of the United States Court of Military Appeals died on October 12, 1968. Judge Kilday was appointed to that Court in 1961. He had an outstanding career as lawyer and legislator. As a member of the House Armed Services Committee for over 20 years, he participated in the drafting of many of the laws relating to the Armed Forces enacted since World War II, including the Uniform Code of Military Justice.

All members of the Judge Advocates Association share a feeling of great loss on the passing of Judge Kilday. He was a distinguished lawyer, legislator and judge; and, he was a friend to so many of the members of this Association.

1969 ANNUAL MEETING IN DALLAS

The twenty-sixth annual meeting of the Judge Advocates Association will be held in Dallas on 11 August 1969 during the week of the American Bar Association meeting. Colonel Gordon Simpson, who headed the committee on arrangements in 1956 when the Association last met in Dallas, has again agreed to make the arrangements and serve as host.

Colonel Simpson has already reserved the new El Fenix supper club and has plans for a gala Mexican style party for this gathering of judge advocates and their ladies. Reserve the date—11 August. Those who remember 1956 at the old El Fenix with the Simpsons will know there won't be a better party in Dallas during ABA week.

ROSTER OF LIFE MEMBERS

At this time the Association has fifty-five living life members. They are:

Cdr. Penrose L. Albright, USNR—Va.
Col. Daniel J. Andersen, USAFR—D.C.
Major Edward Ross Aranow, USAR-Ret.—N.Y.
Col. Manuel Auerbach, USAR—D.C.
Col. Glenn E. Baird, USAR-Ret.—Ill.
Lt. Col. Laurence D. Benamati, USAR-Ret.—Calif.
Col. Pelham St. George Bissell III, USAR-Ret.—N.Y.
Col. James A. Bistline, USAR—Va.
Cdr. Frederick R. Bolton, USNR-Ret.—Mich.
Col. James W. Booth, USA-Ret.—Calif.
Capt. Martin E. Carlson, USNR-Ret.—Md.
Major Joseph Choate, USA—Calif.
Capt. Mark B. Clark, USAFR—Idaho
Col. John E. Coleman, USAR-Ret.—Ohio
Capt. Winthrop S. Dakin, USAR-Ret.—Mass.
Major S. M. Dana, USAR—Calif.
Col. Howard Epstein, USAR-Ret.—N.Y.
Col. Edward R. Finch, Jr., USAFR—N.Y.
Col. John H. Finger, USAR-Ret.—Calif.
Lt. Col. Osmer Fitts, USAR-Ret.—Vt.
Lt. Col. Francis J. Gafford, USAR—Pa.
Lt. Col. Edward R. Garber, USAR—N.Y.
Col. James K. Gaynor, USA-Ret.—Ohio
Capt. David S. Gifford, USAR—Pa.
Col. James Arthur Gleason, USAR-Ret.—Ohio
Capt. Kenneth F. Graf, USAR-Ret.—N.H.
Cdr. Kurt Hallgarten, USNR—N.Y.
Col. Ingemar E. Hoberg, USAR-Ret.—Calif.
Major J. Leonard Hornstein, USAR—N.J.
Capt. Hugh H. Howell, Jr., USNR—Ga.
Lt. Col. Kelly Jacobs, USAFR—Texas

- Brig. Gen. Herbert M. Kidner, USAF-Ret.—Va.
Capt. Charles L. Livingston, Jr., USAR-Ret.—N.Y.
Col. Richard H. Love, USAR—Md.
Major Edwin L. Mayall, USAR-Ret.—Calif.
Lt. Col. Joseph B. McFeely, USAR-Ret.—N.J.
Col. John J. McGlew, USAR-Ret.—N.Y.
Col. Allen G. Miller, USAFR—N.J.
Col. George E. Monk, USAR-Ret.—D.C.
Capt. Stanley J. Morris, USAR-Ret.—Ill.
Lt. Col. Lenahan O'Connell, USAR-Ret.—Mass.
Col. Victor Orsi, USAF—Calif.
Lt. Col. William L. Otten, Jr., USAF—Europe
Lt. Jack Pew, Jr., USNR—Texas
Lt. Col. Charles B. Paine, USAR—Neb.
Myron A. Rosentreter, USAR-Ret.—Ohio
Col. Donald T. Ruby, USA-Ret.—N.Y.
Col. Joseph Sachter, USAF-Ret.—N.Y.
Capt. Richard E. Seley, USAR-Ret.—N.J.
W/O Maury L. Spanier, USAR-Ret.—N.Y.
Cdr. Thomas A. Stansbury, USNR—Ill.
Major Alfred Thomas, USAR-Ret.—Mass.
Lt. John E. Troxel, USAR-Ret.—Calif.
Lt. Col. William G. Vogt, USAR-Ret.—Ill.
Major Guy E. Ward, USAR-Ret.—Calif.
- Col. Joseph F. O'Connell, Jr., USAR, of Massachusetts, a life member, died on 12 August 1966.



What The Members Are Doing . . .

CALIFORNIA:

Col. James W. Booth, USA-Ret., former member of the Armed Services Board of Contract Appeals, recently announced the formation of a firm under the style Booth and Bush for the practice of law with offices at 606 South Olive Street in Los Angeles.

Lt. Col. David I. Lippert, USAR-Ret., of Los Angeles has been elected president of the John P. Oliver Chapter of the Judge Advocates Association. This very active chapter of JAA members in Southern California held elections at its third annual meeting coincident with the California State Bar annual convention in San Diego on 8 October 1968. Other officers elected were: Col. Robert E. Walker, Lt. Col. Jess Whitehill and Col. Robert D. Upp, Vice Presidents; Col. Mitchell Zitlin, Secretary-Treasurer; and Col. John Aiso, Major Sam Dana, Lt. Col. Milner Gleaves, Lt. Col. Arthur Jones, Lt. Col. Edward L. McLarty, Lt. Col. William Peterson and Lt. Col. John C. Spence, Members of the Executive Board.

DISTRICT OF COLUMBIA:

Capt. Ralph E. Becker, USAR-Hon. Ret (1st OC), recently an-

nounced the formation of a law firm for the practice of law with Robert E. Goostree, Irwin H. Liptz and J. Thomas Schneider. Howard J. Feldman and Allen W. Hagerty are associated with the firm. The law firm of Ralph E. Becker has offices in the Federal Bar Building West at 1819 H Street N.W., Washington.

Cdr. Donald H. Dalton, USNR, has removed his law office from the Federal Bar Building to the new Federal Bar Building West at 1819 H Street N.W., Washington.

Capt. Eugene Ebert, USAR, announces the removal of his firm's offices for the practice of law to 2000 L Street N.W., Washington. The firm name is Ebert and Johnson.

Capt. George H. Spencer, USAR-Hon.Ret., announces that his firm, Spencer & Kaye, has removed its offices to 1920 L Street N.W., Washington. The firm specializes in patent, trademark and copyright causes.

FLORIDA:

Lt. Col. John H. Yates, USAFR, announces the removal of his law offices to The Cutler Ridge Professional Building at 10700 Caribbean Boulevard, Miami.

IDAHO:

Col. Abe McGregor Goff, USAR-Ret. has retired as an I.C.C. Commissioner and returned to his home in Moscow, Idaho. After World War II service in Africa, Europe and the Pacific, Col. Goff successively served in the U.S. Congress, practiced law, served as General Counsel to the U. S. Post Office Department and as Commissioner and Chairman of the Interstate Commerce Commission.

ILLINOIS:

Lt. William W. Brady, USAR-Hon.Ret. (7th OC) recently announced that his firm, Kirkland, Brady, McQueen, Martin & Callahan had admitted to the firm, Wayne M. Jensen, and has associated with the firm, Bruce R. Johnson and Leonard E. Blakesley, Jr. The firm has offices at 80 South Grove Avenue, Elgin, Illinois.

Capt. Samuel W. Block, USAR-Hon.Ret., (5th OC) announces that the firm of Raymond, Mayer, Jenner and Block has changed its name to Jenner & Block. The firm has twenty-nine partners and twenty-eight associates. Its offices are at 135 South LaSalle Street in Chicago.

Capt. Robert J. Nolan, USAR-Hon.Ret. (6th OC) announces the dissolution of his former law firm and the creation of a new firm with John F. O'Malley and Patrick W. Dunne. The new firm's

name is Nolan, O'Malley & Dunne. Its new offices are at 33 North Dearborn Street, Chicago.

Capt. L. Sheldon Brown, USAR-Hon.Ret. (4th OC) of Evanston has been elected judge of the Circuit Court of Cook County sitting in Chicago.

MARYLAND:

Col. Manley E. Davis, Jr., USAF-Ret., is the executive director of the Maryland State Bar Association.

MISSOURI:

Col. Walter W. Dalton, USAFR (5th OC) of St. Louis, on the occasion of his retirement from the Air Force Reserve after 26 years of service was awarded the Air Force Commendation Medal. Col. Dalton is General Solicitor of Frisco Railway Lines.

NEW YORK:

Lt. Col. Santo W. Crupe, USAR, announces the formation of the partnership of Bloom & Crupe for the general practice of law with offices at 110 East Forty-Second Street, New York.

Capt. Edward F. Huber, USAR-Hon.Ret., recently announced that the firm of Naylor, Huber, Magill, Lawrence & Farrell has added to the firm three new partners, John N. Chivily, Francis I. Fallon and Norman C. Frost. The firm's offices are located at 61 Broadway, New York.

Lt. Col. Harold Nordlicht, USAR-Ret., has relocated his offices for the practice of law at 225 Broadway, New York.

Mr. Samuel G. Rabinor of Jamaica has been named representative for Queens on the New York City Joint Conference Committee on Court Congestion and Related Problems. Mr. Rabinor has offices at 163-18 Jamaica Avenue, Jamaica, New York.

OHIO:

Col. James K. Gaynor, USA-Ret. has been named Dean of the Cleveland-Marshall Law School. Col. Gaynor resides in Cleveland Heights.

OKLAHOMA:

Col. Harold J. Sullivan, USAF-Ret. (11th Off) has been named executive director of the Oklahoma Bar Association.



JUDGE ADVOCATES ASSOCIATION

Officers for 1968-69

HUGH H. HOWELL, JR., Georgia.....	<i>President</i>
MAURICE F. BIDDLE, Maryland.....	<i>First Vice-President</i>
OSMER C. FITTS, Vermont.....	<i>Second Vice-President</i>
ZEIGEL W. NEFF, Maryland.....	<i>Secretary</i>
CLIFFORD W. SHELDON, District of Columbia.....	<i>Treasurer</i>
JOHN RITCHIE, III, Illinois.....	<i>Delegate to ABA</i>

Directors

By election of the membership:

Gilbert G. Ackroyd, Pennsylvania; John T. Aiso, California; Gerald C. Baker, District of Columbia; James A. Bistline, Virginia; Richard A. Buddeke, Virginia; Anthony J. Caliendo, District of Columbia; Martin E. Carlson, Maryland; James S. Cheney, Hawaii; Edward R. Finch, New York; William S. Fulton, Europe; James A. Gleason, Ohio; William R. Kenney, Maryland; William H. Lumpkin, Virginia; Lenahan O'Connell, Massachusetts; William E. O'Donovan, Washington; Alexander W. Patterson, Virginia; Wilton B. Persons, Jr., Virginia; William L. Shaw, California; Matthew J. Wheeler, District of Columbia; Ralph W. Yarborough, Texas.

By virtue of office as TJAG or former TJAG:

Kenneth J. Hodson, Maryland; Robert W. Manss, Virginia; Joseph B. McDevitt, Virginia; Wilfred Hearn, Virginia; Oswald S. Colclough, Maryland; Charles L. Decker, District of Columbia; Thomas H. Green, New York; George W. Hickman, California; Albert M. Kuhfeld, Ohio; Robert H. McCaw, Virginia; William C. Mott, Maryland; Chester Ward, Hawaii.

By virtue of being a past president of JAA:

Penrose L. Albright, Virginia; Nicholas E. Allen, Maryland; Daniel J. Andersen, District of Columbia; Glenn E. Baird, Illinois; Oliver P. Bennett, Iowa; Franklin H. Berry, New Jersey; Frederick R. Bolton, Michigan; Ralph G. Boyd, Massachusetts; Ernest M. Brannon, District of Columbia; Robert G. Burke, New York; John H. Finger, California; George H. Hafer, Pennsylvania; Reginald C. Harmon, Virginia; William J. Hughes, Jr., Maryland; Herbert M. Kidner, Virginia; Thomas H. King, Maryland; Allen G. Miller, New Jersey; Alexander Pirnie, New York; Gordon Simpson, Texas.

Executive Secretary and Editor

RICHARD H. LOVE
Washington, D. C.

